

# Advisory Opinion

IECDB AO 2005-03

February 17, 2005

TO ALL INTERESTED PERSONS:

Pursuant to Iowa Code section 68B.32A(11) and rule 351—1.2, the Iowa Ethics and Campaign Disclosure Board issues this opinion on executive branch officials and employees being permitted to lobby in jurisdictions other than Iowa. We note at the outset that the Board's jurisdiction is limited to the application of Iowa Code chapters 68A and 68B and rules in Iowa Administrative Code chapter 351.

OPINION:

The issue has been raised concerning the prohibitions on certain lobbying activities in Iowa Code section 68B.5A and if those prohibitions apply to an individual who engages in lobbying activities outside of Iowa.

The Board first notes that its jurisdiction in interpreting the ethics and lobbying laws in Iowa Code chapter 68B is limited to the officials and employees of the executive branch of state government.

Iowa Code section 68B.5A prohibits executive branch officials and executive branch employees from engaging in certain lobbying activities while employed by the state. The statute then goes on to prohibit these officials and employees from engaging in certain lobbying activities for two years after leaving state government.

The harm the statute seeks to prevent is the real or apparent undue influence that an official or employee could exert in dealings with others in Iowa state government. That harm does not exist when the official or employee is involved in jurisdictions outside of Iowa. In addition, the definitions of "lobbyist" and "lobbying" vary by jurisdiction. Thus, it would be unfair to impose a prohibition on Iowa officials and employees when their conduct might not be deemed "lobbying" in another jurisdiction.

Therefore, the Board is of the opinion that the prohibitions in Iowa Code section 68B.5A on certain lobbying activities by officials and employees of the executive branch and for the two years after they leave state government do not apply to activities in a jurisdiction outside of Iowa.

In closing, we encourage all executive branch officials and employees to review the prohibitions on certain lobbying activities in Iowa Code section 68B.5A and Board rule 351—8.17.

BY DIRECTION AND VOTE OF THE BOARD

James Albert, Board Chair

Janet Carl, Vice Chair

Gerald Sullivan

Betsy Roe

John Walsh

Patricia Harper

Submitted by: W. Charles Smithson, Board Legal Counsel